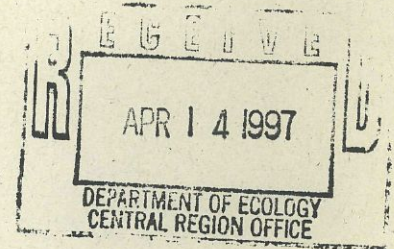




April 14, 1997



Hand Delivered

Darlene Frye
Section Supervisor
Department of Ecology
15 W Yakima Ave, Ste 200
Yakima WA 98902-3401

SUBJECT: Superseding Permit Nos. S4-25639P
Split Portions (B), (D), (E), (G), (U), (V), (W), (X), (Y)

On behalf of Frank Berg, Barney Berg, Doug Watts, Don Watts and Jody Maddox I am requesting that the above recently issued superseding permits be rescinded. [I do not have the full record available to me, so the list of split portions may not be complete--I am referring to superseding permits for splits on Permit S4-25639P which would have issued in February, March or April of 1997.]

The permits should not be issued until the requested changes are resolved. The assignments which were requested are to be executed at the same time as the changes are approved.

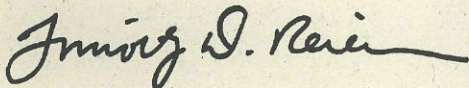
The superseding permits should be rescinded for the following reasons:

1. The superseding permits, which are appealable orders as defined by RCW 43.21B.310, do not "contain a conspicuous notice to the recipient that [they] may be appealed..." and are therefore invalid on their face.
2. The clear intent of each change application coupled with an assignment was to facilitate transfer of the acres to lands owned by the assignees. The superseding permits require the assignees to develop water uses on lands which they do not own and do not have easements to access.

3. The superseding permits are not consistent with the policy followed by the Department of Ecology in processing this type of request. For examples of actions consistent with Department of Ecology policy please refer to the following files: split portions of Permit S4-25639P (H), (I), (J), (K), (L), and (M). These approved changes presented a nearly identical set of facts compared to the assignment/change application filings referenced.
4. The superseding permits place new limitations on the water right permits, such as by restricting the place of use to specific center pivot areas, without informing any of the applicants of this change. These restrictive changes to the place of use were not requested by the permit holders.
5. The Department of Ecology's policy regarding notification of assignees when an assignment is accepted was not followed. The assignees were merely informed: "Enclosed please find the above referenced amended permit, which supersedes the permit dated..." This improper notification gave the applicants the initial impression that the water right changes had been approved.

Would you inform us by April 17, 1997 if you are willing to rescind the new superseding permits in order that we may save everyone the time and expense of an appeal? Our understanding is that Kevin Brown will be proceeding with permanent change application decisions, and we continue to offer any assistance possible towards that end.

Sincerely,



Tim Reiersen

copy to: Doug Watts
Robert Greeno
Jody Maddox



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima, Suite 200 • Yakima, Washington 98902-3401 • (509) 575-2490

March 19, 1997

Watts Brothers Farms
PO Box 129
Paterson WA 99345-0129

Re: Surface Water Permit No. S4-25639(Y)P

Enclosed please find the above referenced amended permit, which supersedes the permit dated June 9, 1995. If you have any questions or concerns about any of this information, please call Kevin Brown at (509) 454-7647.

We are also enclosing a new instruction sheet together with a form for filing Notice of Completion of Construction after the project has been completed.

Please read the instruction sheet as well as both sides of your permit to ensure that the amendments have been properly included.

Sincerely,

Kevin Brown
Shorelands and Water Resources Program
ska

Enclosures: Superseding Permit
Instruction Sheet
Completion of Construction form

p-9(02/94)

FILE COPY

